

Introduced by Senator ChesbroFebruary 22, 2005

An act to amend Section 9092 of the Elections Code, and to amend Section 88006 of the Government Code, relating to ballot pamphlets.

LEGISLATIVE COUNSEL'S DIGEST

SB 721, as introduced, Chesbro. Elections: ballot pamphlets.

Existing law provides that any elector may challenge copy for the ballot pamphlet for statewide elections by showing that the copy is false, misleading, or inconsistent with specified statutory law, and that the issuance of a writ of mandate to amend or delete copy will not substantially interfere with the printing and distribution of the ballot pamphlet.

This bill would codify the requirements of existing law that, in ruling on a challenge to ballot pamphlet copy, a court indulge all legitimate presumptions in favor of the propriety of the copy, and find the copy sufficient in cases where reasonable minds could differ as to the sufficiency of the copy.

This bill would also require that, where a peremptory writ of mandate is issued requiring copy to be amended or deleted, the ballot pamphlet state that the copy was altered pursuant to a court order.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9092 of the Elections Code is amended
- 2 to read:
- 3 9092. (a) Not less than 20 days before he or she submits the
- 4 copy for the ballot pamphlet to the State Printer, the Secretary of

1 State shall make the copy available for public examination. Any
2 elector may seek a writ of mandate requiring any copy to be
3 amended or deleted from the ballot pamphlet. ~~A~~

4 *(b) A peremptory writ of mandate shall issue only ~~upon~~*
5 *pursuant to all of the following:*

6 *(1) Upon clear and convincing proof that the copy in question*
7 *is false, misleading, or inconsistent with the requirements of this*
8 *code or Chapter 8 (commencing with Section 88000) of Title 9 of*
9 *the Government Code, ~~and~~.*

10 *(2) Upon clear and convincing proof that issuance of the writ*
11 *will not substantially interfere with the printing and distribution*
12 *of the ballot pamphlet as required by law. ~~Venue~~*

13 *(3) After all legitimate presumptions have been indulged in*
14 *favor of the propriety of the copy. Where reasonable minds may*
15 *differ as to the sufficiency of any ballot pamphlet copy, the copy*
16 *shall be found sufficient.*

17 *(c) Venue* for a proceeding under this section shall be
18 exclusively in Sacramento County. The Secretary of State shall
19 be named as the respondent and the State Printer and the person
20 or official who authored the copy in question shall be named as
21 real parties in interest. If the proceeding is initiated by the
22 Secretary of State, the State Printer shall be named as the
23 respondent.

24 *(d) If a peremptory writ of mandate is issued requiring copy to*
25 *be amended or deleted from the ballot pamphlet, the fact that the*
26 *copy was altered by a court order shall be stated in the ballot*
27 *pamphlet.*

28 SEC. 2. Section 88006 of the Government Code is amended
29 to read:

30 88006. *(a)* Not less than 20 days before he or she submits the
31 copy for the ballot pamphlet to the State Printer, the Secretary of
32 State shall make ~~the~~ any copy available for public examination.
33 Any elector may seek a writ of mandate requiring the copy to be
34 amended or deleted from the ballot pamphlet. ~~A~~

35 *(b) A peremptory writ of mandate shall issue only ~~upon~~*
36 *pursuant to all of the following:*

37 *(1) Upon clear and convincing proof that the copy in question*
38 *is false, misleading, or inconsistent with the requirements of this*
39 *chapter or the Elections Code, ~~and~~.*

1 (2) *Upon clear and convincing proof* that issuance of the writ
2 will not substantially interfere with the printing and distribution
3 of the ballot pamphlet as required by law. ~~Venue~~

4 (3) *After all legitimate presumptions have been indulged in*
5 *favor of the propriety of the copy. Where reasonable minds may*
6 *differ as to the sufficiency of any ballot pamphlet copy, the copy*
7 *shall be found sufficient.*

8 (c) *Venue* for a proceeding under this section shall be
9 exclusively in Sacramento County. The Secretary of State shall
10 be named as the respondent and the State Printer and the person
11 or official who authored the copy in question shall be named as
12 real parties in interest. If the proceeding is initiated by the
13 Secretary of State, the State Printer shall be named as the
14 respondent.

15 (d) *If a peremptory writ of mandate is issued requiring copy to*
16 *be amended or deleted from the ballot pamphlet, the fact that the*
17 *copy was altered by a court order shall be stated in the ballot*
18 *pamphlet.*

19 SEC. 3. It is the intent of the Legislature in enacting the
20 provisions of Sections 1 and 2 of this act to construe and clarify
21 the meaning and effect of existing law, and to add information to
22 the ballot pamphlet in accordance with Section 9093 of the
23 Elections Code and Section 88007 of the Government Code.